

Chapter No. 539
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SENATE BILL NO. 2847

Originated in Senate *Hemlock* Secretary

SENATE BILL NO. 2847

AN ACT TO AMEND SECTIONS 73-35-103 AND 73-35-105, MISSISSIPPI CODE OF 1972, TO AUTHORIZE INTEREST ON CERTAIN REAL ESTATE BROKER ESCROW ACCOUNTS TO BE PAYABLE TO ANY CHAIR OF REAL ESTATE, LOCAL AFFILIATE OF HABITAT FOR HUMANITY INTERNATIONAL, INC., OR FULLER CENTER FOR HOUSING, INC.; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 73-35-103, Mississippi Code of 1972, is amended as follows:

73-35-103. As used in Sections 73-35-101 through 73-35-105, the following terms shall have the meanings ascribed herein unless the context clearly indicates otherwise:

(a) "Real estate broker" or "broker" means an individual, partnership or corporation licensed pursuant to Section 73-35-1 et seq., and as defined under Section 73-35-3(1).

(b) "IREBEA" means the program created and governed by Sections 73-35-101 through 73-35-105.

(c) "Interest earnings" means the total interest earnings generated by the IREBEA at each individual financial institution.

(d) "Local affiliate of Habitat for Humanity International, Inc.," means an independently run 501(c)(3) organization that acts in partnership with and on behalf of Habitat for Humanity International, Inc., to coordinate all aspects of Habitat home building in a specific geographical area.

(e) Local affiliate of Fuller Center for Housing, Inc., means an independently run 501(c)(3) organization that acts in partnership with and on behalf of Fuller Center for Housing, Inc.,

to coordinate all aspects of home building on behalf of the Fuller Center in a specific geographical area.

(f) "Chair of real estate" means the endowment fund held and administered by any Mississippi university. For those universities which do not designate or which do not have a "chair of real estate," the term "chair of real estate" includes a professorship of real estate.

SECTION 2. Section 73-35-105, Mississippi Code of 1972, is amended as follows:

73-35-105. (1) The IREBEA program shall be a voluntary program based upon willing participation by real estate brokers, whether proprietorships, partnerships or professional corporations.

(2) IREBEA shall apply to all clients or customers of the participating brokers whose funds on deposit are either nominal in amount or to be held for a short period of time.

(3) The following principles shall apply to clients' or customers' funds which are held by brokers who elect to participate in IREBEA:

(a) No earnings on the IREBEA accounts may be made available to or utilized by a broker.

(b) Upon the request of the client or customer, earnings may be made available to the client whenever possible upon deposited funds which are neither nominal in amount nor to be held for a short period of time; however, traditional broker-client or broker-customer relationships do not compel brokers either to invest clients' or customers' funds or to advise clients or customers to make their funds productive.

(c) Clients' or customers' funds which are nominal in amount or to be held for a short period of time shall be retained in an interest-bearing checking or savings trust account with the interest, less any service charge or fees, made payable at least quarterly to any chair of real estate, local affiliate of Habitat

for Humanity International, Inc., or local affiliate of Fuller Center for Housing, Inc. * * * A separate accounting shall be made annually for all funds received.

(d) The broker shall select in writing that the chair of real estate, local affiliate of Habitat for Humanity International, Inc., or local affiliate of Fuller Center for Housing, Inc., shall be the beneficiary of such funds for the interest earnings on such funds. The interest earnings shall not be divided between one or more beneficiaries.

(e) The determination of whether clients' or customers' funds are nominal in amount or to be held for a short period of time rests in the sound judgment of each broker, and no charge of ethical impropriety or other breach of professional conduct shall attend a broker's exercise of judgment in that regard.

(f) Notification to clients or customers whose funds are nominal in amount or to be held for a short period of time is unnecessary for those brokers who choose to participate in the program. Participation in the IREBEA program is accomplished by the broker's written notification to an authorized financial institution. That communication shall contain an expression of the broker's desire to participate in the program and, if the institution has not already received appropriate notification, advice regarding the Internal Revenue Service's approval of the taxability of earned interest or dividends to a chair of real estate, or a local affiliate of Habitat for Humanity International, Inc., or local affiliate of Fuller Center for Housing, Inc.

(4) The following principles shall apply to those clients' or customers' funds held in trust accounts by brokers who elect not to participate in IREBEA:

(a) No earnings from the funds may be made available to any broker.

(b) Upon the request of a client or customer, earnings may be made available to the client or customer whenever possible upon deposited funds which are neither nominal in amount nor to be held for a short period of time; however, traditional broker-client or broker-customer relationships do not compel brokers either to invest clients' or customers' funds or to advise clients or customers to make their funds productive.

(c) Clients' or customers' funds which are nominal in amount or to be held for short periods of time, and for which individual income generation allocation is not arranged with a financial institution, shall be retained in a noninterest-bearing demand trust account.

(d) The determination of whether clients' or customers' funds are nominal in amount or to be held for a short period of time rests in the sound judgment of each broker, and no charge of ethical impropriety or other breach of professional conduct shall attend a broker's exercise of judgment in that regard.

* * *

(5) The Mississippi Real Estate Commission shall adopt appropriate and necessary rules in compliance with the provisions of Sections 73-35-101 through 73-35-105.

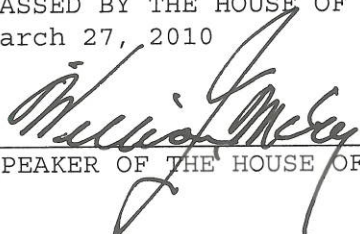
SECTION 3. This act shall take effect and be in force from and after its passage.

PASSED BY THE SENATE
March 27, 2010



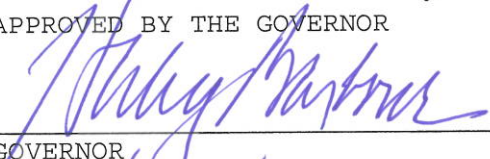
PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 27, 2010



SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR



GOVERNOR

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